

SCANNED

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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Tyrone Peters (DIN# 04A4361)

Plaintiff,

—against—

CLAIM #1

Corrections Officer Huttel
Corrections Officer Erns
Sergeant Mulloch
Counselor Ciffone
Superintendent William Lee, individually
and in their official capacity

USDC SDNY
DOCUMENT
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DOC #1
DATE FILED: 11/23/15

CLAIM #2

Nurse "Jane Doe"
Corrections Officer Alvarez
Sergeant Yando, individually
and in their official capacity

15CV9274

CLAIM #3

Corrections Officer Bedford, individually
and in their official capacity

Defendant (s)

-----X

Civil Action No. _____

Dated: November 17, 2015

Tyrone Peters #04A4361
Tyrone Peters DIN# 04A4361 (Pro Se)
Wende Correctional Facility
3040 Wende Road, P.O. Box 1187
Alden, New York 14004.

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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

-----X
Tyrone Peters (DIN# 04A4361)

Plaintiff,

SUMMONS

-against-

Civil Action No. _____

CLAIM #1

Corrections Officer Huttel

Corrections Officer Erns

Sergeant Mulloch

Counselor Ciffone

**Superintendent William Lee, individually
and in their official capacity**

CLAIM #2

Nurse "Jane Doe"

Corrections Officer Alvarez

**Sergeant Yando, individually
and in their official capacity**

CLAIM #3

**Corrections Officer Bedford, individually
and in their official capacity**

Defendant (s)

-----X
To The Above-Mentioned Defendants:

You are hereby summoned and required to serve upon plaintiff, whose address is Wende Correctional Facility, 3040 Wende Road, Alden, New York 14004, an answer to the complaint which is herewith served upon you within ____ days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. An answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

Clerk of the Court

Date: _____

EXHIBIT

1

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BELLINA ATTORNEYS
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Tyrone Peters
04A4361
Green Haven Correctional Facility
P.O. Box 4000
Stormville NY 12582-4000

NINETY-NINE

**STOLL, GLICKMAN
& BELLINA** ^{LLP} ATTORNEYS
AT LAW

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Tyrone Peters (04A4361)
Green Haven Correctional Facility
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Stormville, NY 12582-0010

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AT LAW**

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Tyrone Peters
04A4361

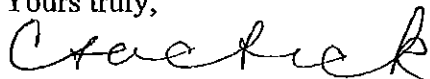
January 28, 2013

~~Green Haven Correctional Facility~~
P.O. Box 4000
Stormville, NY 12582

Dear Mr. Peters,

Thank you for writing our office. We're interested in learning more about what happened. Enclosed please find medical record waivers for Mount Vernon Hospital, so that we may review your medical records. If you have any other documentation of the incident, please send it along to help us evaluate your case. Were you given additional infractions?

Yours truly,



Cynthia Conti-Cook
Associate, Stoll Glickman & Bellina L.L.P.

February 3, 2013

Dear Ms. Cynthia Conti-Cook,

Two weeks ago I mailed you a letter explaining what's going on in this facility and recommending a client to you. I also send the waiver form, of which I made a mistake and asked you to send another.

It's been over two week and I haven't received any notice from you. These C.O.s are already retaliating and I'm concerned about the fact that they are messing with my mail.

On 02/26/13 at approximately 8:30 p.m. in A-Block (in a little room) I was finally interviewed about the Assault by L.T. Murphy who pointed out to me that the C.O. who assaulted me was someone he knew personally. He also asked me if I wanted to go to Sing Sing which I dismissed that notion completely before he could finish. I'm worried that this so called investigation will go no-where. I'm considering to call the Inspector General's Office and make a report.

Also, the Haitian C.O. Eberto that I mentioned in my complain is still in the facility and I made a mistake on his name. His name is Etienne and when I spoke to him on ~~Feb 28~~ Feb 28, he said he don't really remember everything ~~to~~ but he remember seeing C.O. Huttel having my hands behind me in handcuffs raised high and pushing me ~~when~~ while I was in pain and screaming for them to stop hurting me. He said he will talk to you if you contact him.

Last, I send an evidentiary letter from my Counselor while I was in SHU, who totally ignored my concerns and threatened

me with putting me on the draft if I don't give him information and drop the grievance. I want to include him in my law suit as well and I would like to do something about his un-ethical ways of doing his job, he also lied to my Mom

Here is my mother's House phone # - 718-493-8054

Cell - 914-589-4198

her name is Mrs. Daphne Brown

Address - 140-46 Charles Lane

Queens, N.Y. 11413

You can contact her at anytime, Also my sister Sophia Brown lives at the same address and her cell phone # is 347-516-0015

you can also contact her. I speak to them very regular. If you need anything else, please let me know.

Thanks.

Most Respectfully,
T. Peters.

P.S. I've been back to the facility hospital a couple times which I noted. Please advise me on what steps to take.

I received another ticket while in the hospital, when the C.O.s refuse to give me my urinal bottle while I was in pain. Then a C.O hit me with a Electronic gate while in handcuffs going to the visit. He works in the hospital as well.

March 11, 2013

Dear Ms. Cynthia Conti Cook,

I apologize for the delay with the legal papers but I had to send them through my sister via the visit as these C.O.s have been throwing my mails away. I mailed my Tier III Appeal to Albany on Dec. 24, 2012 and haven't received any response although it's way over the 60 days allowed per directive. Also I'm concerned about the mail I send with the Authorization for Release of Health Information - as I signed the wrong Hospital and requested a new one from your office. I haven't gotten a response. I'm also sending a copy of a tier 2 ticket I received in response to these C.O.s retaliation when I was in the facility hospital in bed suffering from back pain and couldn't move. I requested my urinal bottle from Sgt. Yondo and C.O. Alvarez and a Nurse a few times but they denied me it. I urinate in a plastic bag. The ticket was written in violation of Title 7 chap V - where both the Sgt and the C.O wrote the one ticket. One can write and the other endorse or both should write their own ticket. I objected to the violation. I appealed it and it was affirmed. I'm now doing a Article 78. I was also hit with a electronic gate on 02/14/13 as another retaliation scheme. Also, I should be seeing a penis specialist this month and I'm still wearing a jock strap for my testicles and I'm also still on pain medication and muscle relaxer. I've also got another note from Counselor Cifone threatening me to give up information or I'll be shipped up North which is still stressing me out, although I asked him to stop and leave me alone.

Sincerely,

P.S. I'll try to call by telephone soon.

T. Peters #04A4361

03/11/13

P.S. I am also requesting copies of all the original papers that I've send as I was in S.H.U and couldn't get the chance to make copies for myself with out the C.O.s getting the opportunity to read my private legal papers.

Thank you for your time.

**STOLL, GLICKMAN
& BELLINA** ATTORNEYS
AT LAW

475 Atlantic Avenue, 3rd Floor
Brooklyn, NY 11217
P: (718) 852-3710
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www.stollgllickman.com

Date: 4/2/13

To: Tyrone Peters

Facility: Green Haven CF

Greetings and thank you for writing!

I have received your mail and will respond to it as soon as possible! I apologize for this initial impersonal reply, but I know that you all want to be assured that your legal mail has made it out and is on my desk! Please understand that I have a large volume of mail from people all over the New York State prison and New York City jail system, in addition to many deadlines and appointments and phone calls and everything else. I will do my best to review your correspondence, evaluate your case and respond to your letter personally within the next 30 days.

If you haven't already, please forward all materials that you believe I need to evaluate your case. Helpful material includes medical records, use of force reports, misbehavior reports, disciplinary transcripts, complaints, grievances, photographs, etc. Please make sure that you have given me the following: a description of the incident in detail, including your history with the officers involved, where it occurred, how it happened (in your own words and the officers' version), who witnessed it (including DINs, locations, other contact info), what your injuries were (documented and not documented), what treatment you requested or received, disciplinary charges and outcomes, summaries of all conversations you had with officers, witnesses, medical staff, supervisors, investigators, family members, etc. about the incident, photographs, witnesses to your injuries, for example family members (plus contact info).

If you are writing from state prison, please also include what jobs you have held in prison, any certificate programs you've completed, volunteering, etc. and when your expected release is.

If you are writing from a city jail, I may simply call you down for a video conference before writing you back. If you get called for a video conference, please don't refuse it.

Thank you again for writing,



**STOLL, GLICKMAN
& BELLINA^W ATTORNEYS**

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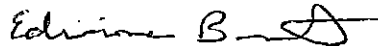
Tyrone Peters
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582

June 5, 2013

Dear Mr. Peters,

Enclosed please find your original documents. Moreover, we will need your Mt. Vernon HIPAA as well, before we can decide on taking your case or not. So please provide us with that document at your earliest convenience.

Regards,



Edwinna Bryant
Assistant, Stoll, Glickman & Bellina LLP

Tyrone Peters #04A4361
Green Haven Correctional Facility
594, Route 216
Stormville, N.Y. 12582

November 30, 2012

Attorney At Law
Ms. Monica Jacobson
225 Broadway
New York, N.Y. 10007

Dear Attorney Ms. Jacobson,

I am writing you for help or any kind of assistance. I am being harrassed after being beaten by (3) three Correctional Officers, here at Green Haven C.F.

[On Nov. 21, 2012 I was charged for threatening a female C.O. and while being taken to S.H.U. by (3) officers namely C.O. Erns, a Sgt. and another white bald head C.O. - (name unknown), kicked me in my testicles, penis, stomach, back and groin area and then all three COs threatened me.

I am in major pain every day, but I'm affraid that if I report it, they will kill me, as they threatened me. I am also bleeding when I pee.

Please Ms. Jacobson - please can you help me, or just call the facility and act like you are my lawyer, so they can stop hurting me. Please. Please Please.

Respectfully
T. Peters #04A4361

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

-----X
Tyrone Peters DIN# 04A4361

Plaintiff,

—against—

COMPLAINT

Civil Action No. _____

Jury Trial Demanded

CLAIM #1

**Corrections Officer Huttel
Corrections Officer Erns
Sergeant Mulloch
Counselor Ciffone
Superintendent William Lee, individually
and in their official capacity**

CLAIM #2

**Nurse. "Jane Doe"
Corrections Officer Alvarez
Sergeant Yando, individually
and in their official capacity**

CLAIM #3

**Corrections Officer Bedford, individually
and in their official capacity**

Defendant (s).
-----X

I. COMPLAINT

Plaintiff, Tyrone Peters DIN# 04A4361, pro se, for his complaint state as follows:

II. PARTIES, JURISDICTION AND VENUE

CLAIM #1

1. Plaintiff Tyrone Peters was confined at Green Haven Correctional Facility, located at 594 Rte, 216 Stormville, New York 12582, from the year 2011 to about June 2013. Plaintiff is currently confined at Wende Correctional Facility located at 3040 Wende Rd., P.O. Box 1187, Alden, New York 14004.
2. Plaintiff Tyrone Peters is, and was at all times mentioned herein, over 18 years of age and a resident of the State of New York.

3. Defendant Corrections Office (Hereafter C.O.) Huttel is and was at all times relevant herein a correctional officer at Green Haven Correctional Facility.
4. Defendant Corrections Office Erns is and was at all times relevant herein a correctional officer at Green Haven Correctional Facility.
5. Defendant Sergeant (Hereafter Sgt.) Mulloch is a DOCCS Officer with the rank of sergeant, who at all times relevant herein was assigned at Green Haven Correctional Facility.
6. Defendant Counselor Ciffone is and was at all times relevant herein, a correctional counselor at Green Haven Correctional Facility.
7. Defendant Superintendent William Lee was at all times relevant herein, superintendent of Green Haven Correctional Facility as superintendent of the prison, defendant manages its day to day operation and executes its policies.

CLAIM #2

8. Defendant Nurse "Jane Doe" is and was at all times relevant herein an employee as a nurse at Green Haven Correctional Facility.
9. Defendant Corrections Office Alvarez is and was at all times relevant herein a correctional officer at Green Haven Correctional Facility.
10. Defendant Sergeant Yando is a DOCCS Officer with the rank of sergeant, who at all times relevant herein was assigned at Green Haven Correctional Facility.

CLAIM #3

11. Defendant Corrections Office Bedford is and was at all times relevant herein a correctional officer at Green Haven Correctional Facility.
12. In **claim #1, claim #2, and claim #3** of these complaints the defendants city of Stormville is at all times relevant herein a prison of the State of New York.
13. These actions (**claim #1, claim #2, and claim #3**) arises under and is brought pursuant to 42 U.S.C. § 1983 to remedy the deprivation, under color of state law, of rights guaranteed by the Eighth and Fourteenth Amendments to the United States Constitution. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 1343(3) and (4).
14. Plaintiff's claim for compensatory damages for **claim #1, claim #2, and claim #3** are authorized by the Federal Rules of Civil Procedure.

15. These cause of actions in **claim #1**, **claim #2**, and **claim #3** arose in the Southern District of New York State. Therefore, venue is proper under 28 U.S.C. § 1391(b)

III. PREVIOUS LAWSUIT BY PLAINTIFF

16. Plaintiff Tyrone Peters has filed no other lawsuit dealing with the same facts involved in **claim #1**, **claim #2** and **claim #3** of this action or otherwise relating to his imprisonment.

IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

CLAIM #1

- a) A grievance was written on December 7, 2012, (# GH 74304-12), grievance was denied.
- b) Grievance was appealed to the superintendent, grievance was denied.
- c) Grievance was appeal to the highest-level CORC, grievance was denied
- d) A complaint was written to superintendent William Lee on December 7, 2012.
- e) A second complaint was written to superintendent William Lee on December 18, 2012.
- f) A third complaint was written to superintendent William Lee on December 24, 2012.
- g) A complaint was written to deputy superintendent of administration Stephen Brandow December 10, 2012.
- h) A complaint was written to deputy superintendent of programs Luis Franco on December 21, 2012.
- i) A complaint was written to Inspector General Office on March 4, 2013
- j) A complaint was written to Commissioner of DOCCS on April 5, 2013
- k) A second complaint was written to Inspector General Office on April 23, 2013
- l) A third complaint was written to Inspector General Office on March 31, 2014

CLAIM #2

No grievance was written because plaintiff feared retaliation and would not received medical assistance when needed. Plaintiff did however complained to hearing officer on February 5, 2013.

CLAIM #3

- a) A grievance was written on February 20, 2013, but was retuned to plaintiff per IGRC supervisor.

- b) A second grievance was written on February 27, 2013.
- c) A third grievance was written on March 1, 2013, (# GH 74737-13) grievance was denied.
- d) Grievance was appealed to the superintendent on April 8, 2013, grievance was denied.
- e) Grievance was appeal to the highest-level CORC, and was denied on August 21, 2013.

IV. STATEMENT OF CLAIM

CLAIM #1

17. At all relevant times herein, defendants were "persons" for purposes of 42 U.S.C. § 1983 and acted under color of law to deprive plaintiff of his Constitutional rights, as set forth more fully below.

CLAIM #2

18. At all relevant times herein, defendants were "persons" for purposes of 42 U.S.C. § 1983 and acted under color of law to deprive plaintiff of his Constitutional rights, as set forth more fully below.

CLAIM #3

19. At all relevant times herein, defendants were "persons" for purposes of 42 U.S.C. § 1983 and acted under color of law to deprive plaintiff of his Constitutional rights, as set forth more fully below.

V. STATEMENT OF FACTS

CLAIM #1

C.O. Huttel, C.O. Erns and Sgt. Mulloch

[REDACTED]

The Plaintiff immediately went downstairs to the Hall Captain Corrections Officer Goehl to inform him of the danger. Officer Goehl immediately dismissed the Plaintiff without listening to the information as the Superintendent and his team was just steps away from entering the building. The Plaintiff tried again to relay the information when a On The Job Training (Hereafter OJT) Female Officer C.O. Drown interjected and shouted to the Plaintiff to take it upstairs. The Plaintiff again tried desperately to relay the threats, but the Female OJT officer got angry that the Plaintiff was ignoring her and shouted out louder. The Plaintiff then turned around and walked upstairs and locked in his cell.

A few minutes later Officer Goehl came to the Plaintiff's cell and asked what was so important that the Plaintiff was so desperately trying to relay, after the Superintendent and the administrative team had left without coming upstairs where the danger was lurking. The Plaintiff explained to Officer Goehl about the threats and Officer Goehl thank the Plaintiff, but then told the Plaintiff that the female OJT Officer Drown and the male OJT Officer Ghauri was now claiming that the Plaintiff, who is a black Jamaican Rastafarian called the female OJT Officer a "CUNT" and stated, "what's the chirping about?" and that the Plaintiff threatened to also kill her.

At about 10:00 a.m. C.O. Erns, who was the senior officer, training the OJT's and the regular F-Block officer, came to the Plaintiff's cell and demanded information on any drug dealers or weapons and if the Plaintiff was unable to provide such information, the Plaintiff would be going to the Special Housing Unit (Hereafter S.H.U.) The Plaintiff told C.O. Erns that he did not know anything of the sort and C.O. Erns got angry and walked away.

At about 10:30 a.m. C.O. Elizer came to the Plaintiff's cell and told the Plaintiff that C.O. Erns had instructed the OJT Officer Drown on how to formulate a bogus misbehavior report in order to send the Plaintiff to S.H.U. for not cooperating in giving up information about any drugs or weapons.

THE ASSAULT

At about 12:30 p.m. C.O. Erns and Sgt. Mulloch came to the Plaintiff's cell and handcuffed the Plaintiff from behind. They then took the Plaintiff out of his cell and told the two OJT Officers to stand to the side on the Tier, while they paraded the Plaintiff around in handcuffs. Officer Erns and Sgt. Mulloch then took the Plaintiff down stairs while all other inmates were locked in their cells.

Sgt. Mulloch called over the radio and stated that he was transporting one to S.H.U. and to clear the hallway.

As C.O. Erns escorted the Plaintiff out the door of F-Block and Sgt. Mulloch closed the door behind him, C.O. Erns told the Plaintiff to stop and face the wall as C.O. Huttel approached. The Plaintiff respectfully followed the order and face the wall with his hands cuffed from behind, when C.O. Huttel asked C.O. Erns, "why is he going to S.H.U.?" C.O. Erns then responded, "He said he was going to kill a female OJT Officer."

C.O. Huttel then told the Plaintiff to turn around and when the Plaintiff did, C.O. Huttel used his hand to grab the Plaintiff's neck and began to choke the Plaintiff while saying, "you like to disrespect female C.O.s you mother fucker, don't you know my girl works here?" The back of the Plaintiff's head hit the wall and the Plaintiff began to cry out and yell that he couldn't breathe when C.O. Huttel let the Plaintiff's neck go and kicked the Plaintiff in the testicles, penis and groin. It hurt like hell and the Plaintiff thought he was about to die. The Plaintiff cramped up and crouched forward when C.O. Huttel used his knee to kick the Plaintiff twice in the stomach, side and back. The Plaintiff tried to move away when C.O. Erns grabbed the Plaintiff so C.O. Huttel could have a better angle to continue to hurt the Plaintiff. The Plaintiff screamed and cried out in major pain, the sort that the Plaintiff wish no man will ever feel, when C.O. Eteinna (a black Haitian Officer) made his presence known by clearing his throat loudly for these Officers to hear him. Sgt. Mulloch then suddenly said, "Okay that's enough, lets go." Sgt. Mulloch then smiled and said, "You have a life bid Peters." C.O. Erns then said, "this ticket is going to be on your record Peters, I'm going to make sure of that."

C.O. Huttel then took the Plaintiff's hands which was in handcuffs and raised them high from behind which caused the Plaintiff to bow forward in more pain. The Plaintiff continued to scream in pain as they marched him to the S.H.U. As the Plaintiff got to the square where C.O. Eteinna was standing, C.O. Eteinna looked at the Plaintiff and shook his head in disgrace or ashamed.

This was an excessive use of force and a deliberate assault on the Plaintiff.

C.O. Huttel continued to call the Plaintiff all sort of derogatory names as he push and hurt the Plaintiff. C.O. Huttel called the Plaintiff a nigger, an asshole, a liar (when the plaintiff cried that he did not threatened the female officer), a bitch ass mother fucker, a pussy and a scumbag. C.O. Huttel, C.O. Erns and Sgt. Mulloch then told the Plaintiff to shut up and that if he ever mention the beating to anyone they will personally end the Plaintiff's life.

The Plaintiff told no one about the beating at this time.

A few days after the Plaintiff was served a misbehavior report. See Exhibit "A".

On December 2, 2012, at approximately 12 p.m. C.O. Huttel continued to harassment the Plaintiff. C.O Huttel came to the SHU to escort the Plaintiff's neighbor at that time in cell 1-11, Inmates Gaines to the hospital (the Plaintiff was in cell 1-10). C.O Huttel looked at the Plaintiff and frowned in an angry manner, pointed at the Plaintiff and said, "you" before leaving.

On December 4, 2012, C.O Huttel returned to escort the Plaintiff's other neighbor in cell 1-9, inmate Rambhasoe to parole. C.O Huttel stared the Plaintiff down with disgust. He then smirked in a threatening matter before leaving. On his return the Plaintiff asked C.O Huttel his name and he laughed and said "Huttel" then asked why? He looked at the camera while smirking and said, "I didn't do nothing to you" before leaving.

The Plaintiff was in major pain from the assault on November 21, 2012 but tried not to complain because the Plaintiff feared retaliation, and knowing that a supervisor (Sgt. Mulloch) was involved only amplified his fear.

On December 7, 2012, the Plaintiff wrote a grievance. See Exhibits "B".

On December 7, 2012, the Plaintiff wrote a complaint to Superintendent Lee. See Exhibits "C".

On December 10, 2012, the Plaintiff wrote a complaint to Deputy Superintendent Administration Stephen G. Brandon. See Exhibits "D".

On December 18, 2012, the Plaintiff wrote a second complaint to Superintendent William Lee. See Exhibits "E".

On December 21, 2012, the Plaintiff wrote a complaint to Deputy Superintendent Program Luis Franco. See Exhibits "F".

On December 21, 2012, the Plaintiff was found guilty of (1) violent conduct, (2) harassment, (3) refusing a direct order and (4) threats, at the Tier (3) hearing of this incident. At the hearing, C.O. Elizer testified for the Plaintiff, stating that the Plaintiff relayed information to him about the danger that the Administrative team faced and that the Plaintiff was not believed to be a threat in anyway. C.O. Baez also testified that he was on the third floor and did not hear any sort of commotion or argument and that the Plaintiff was not a threat to anyone also.

C.O. Terry testified that a week before the incident the Plaintiff told him the Plaintiff wanted to leave the porter job because C.O. Erns was pressuring the Plaintiff for information about other inmates that the Plaintiff could not provide and that the Plaintiff was not the type of person to make those threats.

The Hearing Officer's disposition stated that he believed the incident did occur as written in the misbehavior report, but he also believed that the Plaintiff was trying to save the Superintendent and the administrative team from the danger.

The Plaintiff was sentenced to three (3) months in S.H.U. See Exhibits "G".

An Appeal was done and sent to the Director of Special Housing, D.O.C.C.S., Albany, New York, Mr. Albert Prack on December 24, 2012, but the correctional officer working that day did not mail the letter of appeal.

The Plaintiff later wrote to Mr. Prack inquiring about the Plaintiff's appeal when the plaintiff learned that Mr. Prack did not receive the appeal.

The Plaintiff then re-do the appeal which was denied because the plaintiff entered the date he actually re-did the appeal. See Exhibits "H".

Continuous Harassment Because The Plaintiff was Found Guilty and Grievance Written

On December 22, 2014, C.O Huttel came to the SHU while the Plaintiff was getting a facial haircut and stood in the office where the Plaintiff could see him and he was where the camera could not see him and started to mock the Plaintiff by showing the Plaintiff how he kicked the Plaintiff in the testicles and choked the Plaintiff. He then said, "Go ahead and write another grievance, it will be denied". He laughed and came out of the office and said, "So, they found you guilty," and started laughing again before leaving. The Plaintiff wrote a complaint immediately to the superintendent about this continuous harassment on December 24, 2012.

On December 24, 2012, the Plaintiff wrote a third complaint to Superintendent Lee. **See Exhibits "I".**

On December 27, 2012, the Plaintiff wrote a complaint to the grievance Sgt. Larock stating that the Plaintiff did not receive any notice, that the grievance office received the Plaintiff's grievance dated November 21, 2012. **See Exhibits "J".**

Retaliatory Actions because of the Plaintiff's Grievance

On March 29, 2013, at approximately 3:37 p.m. , C.O. Ghauri who was the OJT C.O. involved in the ticket came to the Plaintiff's cell in E-Block, 240 cell and told the Plaintiff that if the Plaintiff knows what his future hold, the Plaintiff better drop the grievance on C.O. Huttel and stop complaining before the Plaintiff get another round of beating.

C.O. Ghauri then handed the Plaintiff his medication and had the Plaintiff sign for it and said the Plaintiff might be needing more of this before leaving.

At about 9:50 p.m. C.O. Ghauri checked the cell bars and stopped at the Plaintiff's cell and said if he ever catches the Plaintiff, he would do like he did to inmate Nesbit in December 2012 in E- BLOCK. C.O. Ghauri continued by saying this is what C.O. Erns teaches us to do bitch. C.O. Ghauri then left.

The Plaintiff's neighbor witnessed the threats made by C.O. Ghauri who was in cell 239, E-Block (inmate DIN#03A3346, FARRELL Dennis).

The Plaintiff was scared to file another grievance in Green Haven Correctional Facility.

Exhaustion of other Remedies

On March 4, 2013, the Plaintiff wrote a complaint to the Inspector General Office, Albany, N.Y. 12226. **See Exhibits "K".** The Plaintiff received no response.

On April 5, 2013, the Plaintiff wrote another complaint to the State Commissioner of Corrections, Executive Department, 80 Wolf Rd., Albany, NY 12205. **See Exhibits "L".**

On April 19, 2013, the Plaintiff received a response from the State Commissioner of Corrections, stating that the Plaintiff compliant is being looked at by the Inspector General's Office. See Exhibits "M".

On April 22, 2013, the Plaintiff was interviewed by the Inspector General's Office (Officer Ortiz) where the Plaintiff told him about every verbal, physical assault and emotional stress was bestowed on the Plaintiff at Green Haven Correctional Facility.

On April 23, 2013, the Plaintiff wrote a notarized letter to I.G. Officer Ortiz explaining the Plaintiff's intentions and reiterating complaint claim #1, claim #2, and claim #3. See Exhibit "N". The Plaintiff received no response.

On March 31, 2014, the Plaintiff wrote a complaint to the Inspector General's Office (to the attention of Officer Frank Ortiz) asking for a response about the investigation. The Plaintiff received no response again. See Exhibit "O".

Continuous Retaliatory Actions because of the Plaintiff's Grievance

Counselor Ciffone

On February 5, 2013, while still in SHU counselor Ciffone came to see the Plaintiff and the Plaintiff told him about the assault that C.O. Huttel, C.O. Erns and Sgt. Mulloch did on the Plaintiff and that he feared being transferred far away from his mother and family. Counselor Ciffone stood at the Plaintiff's cell and told the Plaintiff to write on a piece of paper what the Plaintiff's other concerns were.

The Plaintiff wrote that Sgt. Miller haven't came to see the Plaintiff about any interview.

Counselor Ciffone read the paper and then told the Plaintiff that he was going to be transferred out of the facility, but that he could help the Plaintiff to stay at the facility so that the Plaintiff can be close to his family.

Counselor Ciffone then wrote "in order to keep here, you will have to give up something big—drugs, weapons". See Exhibits "P".

Counselor Ciffone then told the Plaintiff to should drop the grievance that he wrote because it is going to be denied, because counselor Ciffone used to be a correctional officer and that's how its done.

Counselor Ciffone went on to say he knows C.O. Erns personally and that C.O. Erns is also a sheriff and that C.O. Erns told him to press the Plaintiff for information.

Counselor Ciffone also said he knows C.O. Huttel and that he is an enforcer because he also has a second job as a Coast Guard and these two officers will be more credible than the Plaintiff (even if the Plaintiff got medical report) to the court.

Counselor Ciffone then left the S.H.U..

On February 24, 2012, the Plaintiff wrote another letter after coming from S.H.U. to Counselor Ciffone about the Plaintiff's emotional stress and what the Plaintiff was going through and that the Plaintiff was seeking help. See Exhibits "Q".

On February 26, 2013, Counselor Ciffone answered and knowing that the Plaintiff was stressed about being transferred away from the Plaintiff's family reiterate the notice of the Plaintiff's transfer. See Exhibits "R".

On February 27, 2013, the Plaintiff wrote Counselor Ciffone a frustrated letter explaining how he has made the Plaintiff stress level raise to the roof. See Exhibits "S".

On March 1, 2015, Counselor Ciffone wrote another letter to the Plaintiff reiterating the Plaintiff's options of putting his life at risk if the Plaintiff wanted to be with his family, which continued to cause sleepless nights and stressful days. See Exhibits "T".

FAILURE TO PERFORM DUTY

Superintendent William Lee

Although the Plaintiff wrote continuously to Superintendent W. Lee about the assault, dated December 7, 2012, December 18, 2012 and December 24, 2012.

The Superintendent failed to appoint a supervisor to investigate the assault in a timely manner, which allowed C.O. Huttel to continue to torment and harass the Plaintiff.

Superintendent W. Lee failure to trained his Correctional Officers in CLAIM #3, on how to operate the Electronic gates properly, also caused Correctional Officer Bedford to deliberately use the gate to assault the Plaintiff. This was definitely not an accident, when C.O. Bedford told the Plaintiff on March 29, 2013 while he was working in E-Block, that he was told about the threat that the Plaintiff made to the female Officer a week after it happened, and if he was present, he would definitely make sure that the Plaintiff would not be able to threaten another female officer ever again, and that's why he used the electronic gate to hit the Plaintiff to teach the Plaintiff a lesson.

(Note): There have been many occasions where the Officers assigned to operate the electronic gates has caused injuries to people. In 2011, C.O. Wolf was hurt by an electronic gate because of an officer's untrained ability to operate the gates.

The Plaintiff continuous complaint to Superintendent W. Lee also caused a Correctional Counselor (Mr. Ciffone) to torment the Plaintiff, which the Plaintiff thinks the Superintendent personally knew about, because that kind of torment is a custom at Green Haven Correctional Facility.

On February 26, 2013, the Plaintiff was interviewed by LT. Miller who asked the Plaintiff to drop the grievance and LT. Miller would get the Plaintiff transferred to Sing-Sing Correctional Facility which would be closer to the Plaintiff's family. The Plaintiff told LT. Miller "no, not if justice is not served."

LT. Miller then told the Plaintiff that he knows C.O. Erns for over ten years and C.O. Huttel is a good friend of his. LT. Miller then asked the Plaintiff if the Plaintiff wanted to continue with this grievance although all the officers have already denied the allegations?

The Plaintiff told LT. Miller that he was telling the truth about being assaulted and that even though the Plaintiff knew LT. Miller is going to deny the Plaintiff's grievance if the Plaintiff continue, the Plaintiff would take it to the courts in order to get the truth and justice.

The interview was done on February 26, 2015 and denied on March 11, 2015 but LT. Miller stated that the interview was done in his report on February 7, 2013, while the Plaintiff was still in the S.H.U. (This is refereed in Exhibit "V" below.)

The Plaintiff received no response from the interview and remembering that all staff members were trying desperately to get the Plaintiff to drop the grievance, the Plaintiff wrote to Superintendent W. Lee on March 28, 2013. See Exhibits "U".

The Grievance was denied on March 11, 2013, but because of the complaint written to the Superintendent on March 28, 2013 (exhibit "u"), the Plaintiff received the determination on April 4, 2013, which was way after the seven (7) days allowed by DOCCS law to appeal the determination. This was an intentional act to get the Plaintiff to drop the grievance. The Plaintiff, however appealed the determination on April 8, 2013. See Exhibits "V".

INJURIES

The Plaintiff sustained multiple injuries from the assault (beating) from C.O. Huttel, C.O. Erns, and Sgt. Mulloch on November 21, 2012. See Medical Exhibits "W".

The Plaintiff was kicked in the testicles and penis, kicked in the stomach, side and back, choked and hit head on the wall, and while in handcuffs from behind, the Plaintiff's hands were raised high so that he could be in major main.

The Plaintiff was urinating blood and taken to Mount Vernon Hospital as a result, and was admitted for four (4) days. The Plaintiff continued to urinate blood for two (2) years from November 21, 2012 to 2014. The Plaintiff went through continuous therapy and had to be on pain medication for two (2) years as a result of the assault.

The Plaintiff experienced severe Emotional Stress and distain from all defendants in **claim #1.**

The Plaintiff has a life scar because of this assault which includes suffering from erectile dysfunction and mental suffering where the Plaintiff is now living his everyday life on the edge, thinking that all DOCCS members are liable to assault the Plaintiff at anytime.

The Plaintiff was on pain medication (Ibuprofen-600mg) for over two (2) years because of this assault.

The Plaintiff went through a painful operation in 2014, where an object was inserted inside the Plaintiff's penis and sent all the way to his bladder, due to the injuries he sustained from the assault on November 21, 2012.

The Plaintiff and his family suffered emotionally because of the unprofessional acts of all the defendants in this complaint. As such, despite all the Plaintiff's complaints and plead for justice, and evidence presented to prove the Plaintiff's claims, the Plaintiff continues to experience difficulties with DOCCS and getting answers from CORC until the Plaintiff received a denial on August 14, 2013. See Exhibits "X".

EXTREME INJURY

The Plaintiff's most extreme physical injury, due to the beating on November 21, 2012, by C.O. Huttel, C.O. Erns and Sgt. Mulloch, was that the Plaintiff suffered from erectile dysfunction, which caused extreme emotional distress, causing in the Plaintiff's wife (Mrs. Ava-Dawn Wynter) to abandoned the Plaintiff, resulting in a divorce. See Exhibits "Y".

WITNESSES FOR THE PLAINTIFF

- 1) C.O. Eteinna: On November 21, 2012, C.O. Eteinna witnessed C.O. Huttel inflicting pain to the Plaintiff by having the Plaintiff's hands raised high behind the Plaintiff's back while escorting the Plaintiff to the SHU. C.O. Eteinna was standing at F and G corridor. On April 12, 2013, Friday at about 9:10 a.m. C.O. Eteinna working at E Block and had a conversation with the Plaintiff where he reiterated the facts that he did saw C.O. Huttel, C.O. Erns and Sgt. Mulloch escorting the Plaintiff to the SHU and that C.O. Huttel had the Plaintiff handcuffed behind his back with his hands raised really high and the Plaintiff was screaming in pain as C.O. Huttel continued to assault the Plaintiff and hurt the Plaintiff in that unprofessional position.
- 2) C.O. Elizer: C.O. Elizer testified that the Plaintiff told him that in no way did he threaten the female C.O. with those words "what the chirping about you f__ing Cunt" and "I'm going to take you out." and to the Plaintiff's character. C.O. Elizer on April 12, 2013, at about 10:15 a.m. also spoke to the Plaintiff and told the Plaintiff that C.O. Erns was in F-Block bragging about C.O. Erns, C.O. Huttel and Sgt. Mulloch giving the Plaintiff an ass whipping before taking the Plaintiff to the S.H.U..
- 3) Inmate 0343346 Dennis FARRELL was present in E-Block, cell 239 on March 29, 2013, at about 3:32 p.m. when C.O. Ghauri threatened to beat the Plaintiff like C.O. Erns, C.O. Huttel and Sgt. Mulloch.

AFFIDAVIT TO FOLLOW.
UNAVAILABLE at this time.

- 4) **Mrs. Daphne Brown**, the Plaintiff's Mother, called Green Haven Correctional Facility, after learning about her son (the Plaintiff) being assaulted by three Correction Officers, and Counselor Ciffone told her that he was present when the Plaintiff was brought to the S.H.U. and that the beating did not occur. The Plaintiff's Mother witnessed the Plaintiff in pain when she visited. **(See Affidavit # 1)**
- 5) **Kellie-Anne Brown**, the Plaintiff's present wife, noticed when she visited the Plaintiff, that the Plaintiff was always in pain every time the Plaintiff sat and the Plaintiff was always complaining about the Plaintiff testicles and penis. The Plaintiff's wife also witnessed that the Plaintiff was suffering from erectile dysfunction because of the beating and assault before and after a conjugal visitation. **(See Affidavit # 2)**

Prayer for Relief

These acts represent a pattern of events demonstrating intentional retaliation against the Plaintiff by the defendants C.O. Huttel, C.O. Erns, Sgt. Mulloch, Counselor Ciffone and Superintendent William Lee's failure to do his duty.

WHEREFORE, Plaintiff, Tyrone Peters, prays for the judgment in his favor and damages in his favor against all defendants in an amount sufficient to compensate the Plaintiff for the pain and mental anguish suffered by the Plaintiff due to the deliberate indifference and intentional misconduct by defendants, but in no event, less than \$300,000.00 (three hundred thousand dollars) together with the Plaintiff's attorney's fee and costs, and such additional relief as the Court may deem just and proper.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: November 17, 2015.

Tyrone Peters
Tyrone Peters DIN# 04A4361
Wende Correctional Facility
3040 Wende Road, P.O. Box 1187
Alden, New York 14004

CLAIM #2

Nurse "Jane Doe", C.O. Alvarez and Sgt. Yando

On January 22, 2013, the Plaintiff was suddenly awakened by C.O. Smith for chow while the Plaintiff was sleeping. Plaintiff was on pain medication and sleeping in an awkward position because of the injuries sustained from the assault on November 21, 2012, by C.O. Huttel, C.O. Erns and Sgt. Mulloch. The sudden noise by C.O. Smith caused the Plaintiff to jump suddenly causing the Plaintiff to fall off his bed and hurt his shoulder and back.

A grievance was written, but Plaintiff received no interview by a supervisor or IGRC supervisor about the grievance; instead the grievance was swept under the rug, although the grievance was logged as # GH – 74668-13. **See Exhibit "2-A"**

Plaintiff was taken by ambulance to the Outside Hospital. The Plaintiff was later transferred back to the facility in a wheelchair and placed on a bed in the Green Haven Facility Hospital.

On orders by Doctor Bentivegna, Plaintiff was to be given a urinal bottle for urinating because the Plaintiff's injuries prevented him from walking.

The Plaintiff's injuries were so severe that the Plaintiff was prescribed a high dose off pain medication. (perkiset)

On January 25, 2013, nurse "Jane Doe" refused to give Plaintiff a urinal to pee although Plaintiff continually requested the urinal to urinate.

Plaintiff asked Sgt. Yando and C.O. Alvarez while nurse "Jane Doe" was giving Plaintiff his morning medicine and both C.O.s said they were security, not medical so they could not pass the Plaintiff the urinal.

The Plaintiff explained to Sgt. Yando that nurse "Jane Doe" was having a serious hatred as if the Plaintiff was locked up for doing something to nurse "Jane Doe"'s family member. nurse "Jane Doe" then said that the Plaintiff should learn not to threaten females about hurting them, especially the female officers.

The Plaintiff cried in pain and pleaded for the urinal and nurse "Jane Doe" ignored the Plaintiff.

The Plaintiff who was in major back pain was now in major stomach pain and waited until all staff members left before using a plastic garbage bag to urinate in.

A couple of hours later, nurse "Jane Doe", Sgt. Yando and C.O. Alvarez came back to give the Plaintiff his afternoon pain medicine when nurse "Jane Doe" pointed out that the Plaintiff peed in a plastic bag that was under the bed.

A misbehavior report was written for unhygienic act per Sgt. Yando by C.O. Alvarez. See Exhibit "2-B".

Sgt. Yando told the Plaintiff not to even think about writing a grievance, as the grievance will be disregarded as the grievance written on February 21, 2013. (# GH – 74668-13).

The Plaintiff explained at the hearing, when Plaintiff was better, Plaintiff tried to tell the hearing officer that the bag could have contained coffee but was found guilty and gave 30-days keep locked and loss of privileges. See Exhibit "2-C".

The Plaintiff explained to the hearing officer about the violation as C.O. Alvarez also told the hearing officer that the Plaintiff was asking nurse "Jane Doe" and both C.O.s for the urinal but the nurse refused to give it to the Plaintiff.

The hearing officer explained that C.O.s are present for security, so the Plaintiff should take his complaint to medical.

On February 5, 2013, appeal was denied by Superintendent W. Lee. See Exhibit "2-D".

The Plaintiff's 8th and 14th Amendment rights of the U.S. Constitution was violated, when the above defendants made the retaliatory act because of the alleged threats made to a female C.O. in Claim #1.

In as much, Plaintiff medical record shows that the Plaintiff was seriously injured and suffered serious back pain and the urinal was needed. See Exhibit "2-E".

FAILURE TO ADMINISTER ADEQUATE MEDICAL CARE AND RETALIATING TREATMENT FOR FILING GRIEVANCE

Nurse "Jane Doe"

Defendant, nurse "Jane Doe", exercised deliberate indifference to the Plaintiff's health by failing to provide adequate medical care to the Plaintiff following the assault by C.O. Huttel, C.O. Erns and Sgt. Mulloch because of the alleged threats made to a female C.O. on November 21, 2012.

As a result of nurse "Jane Doe" 's deliberate indifference to Plaintiff condition, Plaintiff suffered pain and mental anguish, nurse "Jane Doe" refused to full-fill any of Plaintiff's request for the needed urinal the doctor told the nurses to give to the Plaintiff. Because of this, Plaintiff received a misbehavior report and had to 20- days keep lock and loss of privileges.

BREACH OF DUTY TO PROTECTION

C.O. Alvarez and Sgt.Yando

C.O. Alvarez and Sgt. Yando deliberately refused to use simple common sense to allow the Plaintiff to again access to the needed urinal. Those officers witness the retaliatory remarks made by nurse "Jane Doe" before she denied the Plaintiff access to the urinal and should have stopped her deliberate actions. Also, as a result of this defendant's failure to protect the Plaintiff, Plaintiff suffered from physical pain and mental anguish.

Prayer for Relief

These acts represent a pattern of events demonstrating intentional retaliation against the Plaintiff by the defendants nurse "Jane Doe", Corrections Officer Alvarez and Sergeant Yando.

WHEREFORE, Plaintiff, Tyrone Peters, prays for the judgment in his favor and damages in his favor against all defendants in an amount sufficient to compensate the Plaintiff for the pain and mental anguish suffered by the Plaintiff due to the deliberate indifference and intentional misconduct by defendants, but in no event, less than \$50,000.00 (fifty thousand dollars) together with the Plaintiff's attorney's fee and costs, and such additional relief as the Court may deem just and proper.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: November 17, 2015.

Tyrone Peters
Tyrone Peters DIN# 04A4361 *Pro Se*
Wende Correctional Facility
3040 Wende Road, P.O. Box 1187
Alden, New York 14004

CLAIM # 3

C.O. Bedford

On February 14, 2013, (Valentines Day) at Green Haven Correctional Facility, at approximately 11:20 a.m. Plaintiff was being escorted from SHU in handcuffs to the visit room by C.O. Brothers and Sgt. Kelly. After the Plaintiff exited, the SHU elevator, the Plaintiff was being escorted through the electronic gate at building # 2, when C.O. Bedford who was operating the electronic gates looked directly at the Plaintiff and smiled and closed the gates while the Plaintiff was going through, causing the gate to slam against the Plaintiff's right shoulder and right hip, injuring the Plaintiff.

C.O. Brothers and Sgt. Kelly immediately asked the Plaintiff if he was okay as they realized the severity of the impact of the gate slamming against the Plaintiff. The Plaintiff was eager to see his Mother on Valentine's Day, so he withstood the pain and said he was okay enough to see his Mother and to see medical later.

The next day, February 15, 2013, the Plaintiff was in excruciating pain which the Plaintiff reported to medical and received treatment and medication. **See Exhibit "3-A"**.

A grievance was written February 20th and February 27th 2013. **See Exhibit "3-B"**.

On February 28, 2013, the Plaintiff received correspondence from grievance office for the Plaintiff to state what gate he was struck by and to state his DIN # if he still wishes to file a grievance in an attempt to discourage the Plaintiff in filing a grievance. **See Exhibit "3-C"**.

On March 1, 2013, the Plaintiff re-wrote the grievance and re-submitted it to the grievance office. **See Exhibit "3-D"**.

On March 22, 2013, Sgt. Kelly interviewed the Plaintiff where the Plaintiff reiterated his complaint. Sgt. Kelly told the Plaintiff that the grievance would be denied, so the Plaintiff should drop the grievance. The Plaintiff refused to drop the grievance.

On March 29, 2013, or thereabout C.O. Bedford came to the Plaintiff's cell E-Block , 2 Company cell 240, and told the Plaintiff that he was told about the threat that the Plaintiff made to the female Officer a week after it happened, and if he was present, he would definitely make sure that the Plaintiff would not be able to threaten another female officer ever again, and that's why he used the electronic gate to hit the Plaintiff to teach the Plaintiff a lesson.

This was a deliberate assault on the Plaintiff, which violates the Plaintiff's Constitutional rights.

On March 28, 2013, grievance was denied for reasons that the allegations are unsubstantiated and the incident was an accident. On April 4, 2013, the Plaintiff received the response of denial and appealed the denial to the superintendent on April 8, 2013. Grievance was denied by superintendent. Grievance was denied by CORC August 21, 2013. **See Exhibit "3-E"**.

INJURIES

The Plaintiff sustained shoulder, hip and back injuries and was given pain medication 600 mg of Ibuprofen and received multiple physical therapy from 2013 to 2015. See Exhibit "3-F".

Prayer for Relief

These acts represent a pattern of events demonstrating intentional retaliation against the Plaintiff by the defendant C.O. Bedford.

WHEREFORE, Plaintiff, Tyrone Peters, prays for the judgment in his favor and damages in his favor against all defendants in an amount sufficient to compensate the Plaintiff for the pain and mental anguish suffered by the Plaintiff due to the deliberate indifference and intentional misconduct by defendant, but in no event, less than \$50,000.00 (fifty thousand dollars) together with the Plaintiff's attorney's fee and costs, and such additional relief as the Court may deem just and proper.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: November 17, 2015.

Tyrone Peters
Tyrone Peters DIN# 04A4361 *Pro Se*
Wende Correctional Facility
3040 Wende Road, P.O. Box 1187
Alden, New York 14004

AFFIDAVITS

Affidavit #2

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X

Tyrone Peters (DIN# 04A4361)

Plaintiff,

AFFIDAVIT

-against-

Civil Action No. _____

Correction Officer Huttel, et al.

Defendant (s).

-----X

I, Mrs., Kellie-Anne Brown, being duly sworn according to the law, dispose and says:

1. On December 5th, 2012, I received a letter from Tyrone Peters which described his injuries that he sustained from being assaulted by Corrections Officer Huttel at Green Haven Correctional Facility, on November 21, 2012. See Exhibit A
2. On May 18th 2013, I visited Tyrone Peters at Green Haven Correctional Facility and noticed that he could not sit properly on the seat during the visit, because he was in pain when he sat and he complained about groin and back pain. Tyrone Peters explained to me that he was now suffering from erectile dysfunction, due to the injuries sustained from the assault on November 21, 2012, by Corrections Officer Huttel at Green Haven Correctional Facility.
3. On, September 2nd, 2015, I attended a Family Reunion visit (FRP) to consummate my marriage to Tyrone Peters, and noticed that he did in fact suffer from erectile dysfunction.
4. I have known Tyrone Peters since 2002, and we had a sexual relationship, where he had no erectile dysfunction.

All of the information I have submitted is true and correct.

Signature: Kellie-Anne Brown Nov 19, 2015

Name Printed: Kellie-Anne Brown

SWORN TO BEFORE ME THIS

19th day of November, 2015.

State of New York
County of Niagara

Barbara S. Lizardo
Notary Public

BARBARA S LIZARDO
NOTARY PUBLIC-STATE OF NEW YORK
No. 01LI6314371
Qualified in Niagara County
My Commission Expires November 03, 2018

Affidavit # 7

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

-----X
Tyrone Peters (DIN# 04A4361)

Plaintiff,

AFFIDVIT

—against—

Civil Action No. _____

CLAIM #1

Corrections Officer Huttel

Corrections Officer Erns

Sergeant Mulloch

Counselor Ciffone

**Superintendent William Lee, individually
and in their official capacity**

CLAIM #2

Nurse "Jane Doe"

Corrections Officer Alvarez

**Sergeant Yando, individually
and in their official capacity**

CLAIM #3

**Corrections Officer Bedford, individually
and in their official capacity**

Defendant (s)

-----X
AFFIDAVIT OF MRS. DAPHNE BROWN

I, Mrs. Daphne Brown, swears under the penalty of perjury and says that I am a witness in the above-entitled proceeding.

1. That I am an adult over the age of twenty one years of age and presently of sound mind and body.
2. That I reside at 140-46 Charles Lane, Queens, New York 11413.
3. That the contents of the herein affidavit are true and accurate to the best of my knowledge and goes as follows:-
4. On or about December 2012, I called the Green Haven Correctional Facility to inquire about the health of my son (Tyrone Peters) the Plaintiff in this case, and spoke to the Correctional

Counselor assigned to the Special Housing Unit (SHU), Mr. Ciffone, who told me that my son was presently in the SHU.

5. I then asked Counselor Ciffone about the complaint that I received from my son, which implicated C.O. Huttel, C.O. Erns and Sgt. Mulloch as the officers who assaulted my son and then took him to the SHU on November 21, 2012.

6. Counselor Ciffone then told me that my son (Tyrone Peters) was fine and that he was present when all three officers took my son to the SHU and the assault did not happen. He then told me that I was allowed to visit my son.

7. I visited my son after the conversation with Counselor Ciffone and notice that my son had problem sitting down and walking properly, as he was in major pain and complaining about the pain in his testicles, penis, back and arms, which occurred due to the beating C.O. Huttel, C.O. Erns and Sgt. mulloch gave my son, for allegedly threatening a female correction officer.

8. My son continuously complained to me about his failure to sleep at nights and the erectile dysfunction that he is experiencing since this assault.

9. My son has been affected mentally and physically since this great ordeal, which has then caused a break up of his prior marriage with Ms. Ava-Dawn Wynter.

10. I have read the content of this affidavit and swear them to be true.

11. This affidavit is made freely and independently of any threats or promises.

12. I sign this affidavit with the acknowledgement that it is simply my wish to do so.

Respectfully,


Mrs. Daphne Brown

SWORN TO BEFORE ME THIS

15th DAY OF NOVEMBER, 2015


NOTARY PUBLIC

CHARLES WASHINGTON
NOTARY PUBLIC, State of New York
No. 01WA5012624
Qualified in Nassau County
Commission Expires June 15, 2017

EXHIBITS

CLAIM # 1

EXHIBIT

A

JMS 2171B (4/01)

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES

Green Haven

Correctional Facility

Continued

INMATE MISBEHAVIOR REPORT ♦ INFORME DE MAL COMPORTAMIENTO DEL RECLUSO

1. NAME OF INMATE (Last, First) ♦ NOMBRE DEL RECLUSO (Apellido, Nombre) <u>Peters, Tyrone</u>	NO. ♦ NÚM. <u>04 A 4361</u>	HOUSING LOCATION ♦ CELDA <u>F-5-247</u>
2. LOCATION OF INCIDENT ♦ LUGAR DEL INCIDENTE <u>F Block, 2nd Deck / 5 Company</u>	INCIDENT DATE ♦ FECHA <u>11/21/12</u>	INCIDENT TIME ♦ HORA <u>Approx. 0905</u>
3. RULE VIOLATION(S) ♦ VIOLACIÓN/ES <u>106.10 - Direct Order, 102.10 - threats written or spoken</u> <u>104.11 - Conduct with threats of violence 107.11 - Verbal Harassment of an Employee</u>		
4. DESCRIPTION OF INCIDENT ♦ DESCRIPCIÓN DEL INCIDENTE <u>On the above date and approximate time of 09:05, I officer C. Drown, was assigned to F Block as an officer. While on the Flats, the 5 Company Porter, Inmate Peters, T., DIN# 04A4361 was given a direct order by Officer J. Goehl to return to his company and clean. Inmate Peters blatantly stared at Officer Goehl without a response. Officer Goehl then instructed me to escort Inmate Peters back to 5 Company. Inmate Peters continued to stare at Officer Goehl and did not move. I then gave Inmate Peters two Direct Orders to return to 5 Company. He stared at me with no movement. Upon my 3rd Direct Order to return to 5 Company Inmate Peters turned and began to walk up the stairs. Myself and officer Ghausi escorted Inmate Peters to the Second Deck. Upon reaching the Second Deck, Inmate Peters turned toward me in an aggressive, bladed manner with his fists clenched. He then stated "I Don't know why all the chirping is about you fucking cunt." Inmate Peters then turned and continued toward 5 Company. Once Inmate Peters walked through the end gate I locked it behind him, giving him a Direct order to lock into his cell.</u>		
REPORT DATE ♦ FECHA <u>11/21/12</u>	REPORTED BY ♦ NOMBRE DE LA PERSONA QUE HACE EL INFORME <u>C. DROWN</u>	SIGNATURE ♦ FIRMA <u>C. Drown</u>
5. ENDORSEMENTS OF OTHER EMPLOYEE WITNESSES (if any) SIGNATURES: ENDOSOS DE OTROS EMPLEADOS TESTIGOS (si hay) FIRMAS		
<u>1. [Signature] Goehl</u> <u>2. [Signature] A. Ghausi</u> <u>3. [Signature]</u>		

NOTE: Fold back Page 2 on dotted line before completing below.

DATE AND TIME SERVED UPON INMATE
FECHA Y HORA DADO AL RECLUSO11/23/12 816A

NAME AND TITLE OF SERVER

NOMBRE Y TÍTULO DEL QUE ENTREGA

You are hereby advised that no statement made by you in response to the charges or information derived therefrom may be used against you in a criminal proceeding. Por este medio se le informa que no se puede usar ninguna declaración hecha por usted como respuesta al cargo o la información derivada de ella en una demanda criminal.

NOTICE ♦ AVISO

REVIEWING OFFICER (DETACH BELOW STATEMENT FOR VIOLATION HEARING ONLY)

You are hereby notified that the above report is a formal charge and will be considered and determined at a hearing to be held.

Por este medio se le notifica que el informe anterior es un cargo formal el cual se considerará y determinará en una audiencia a celebrarse.

The inmate shall be permitted to call witnesses provided that so doing does not jeopardize institutional safety or correctional goals.

Se le permitirá al recluso llamar testigos con tal de que al hacerlo no pondrá en peligro la seguridad de la institución o los objetivos del Departamento.

If restricted pending a hearing for this misbehavior report, you may write to the Deputy Superintendent for Security or his/her designee prior to the hearing to make a statement on the need for continued prehearing confinement.

Si está restringido pendiente a una audiencia por este informe de mal comportamiento, puede escribirle al Diputado del Superintendente para Seguridad o su representante antes de la audiencia para que haga una declaración acerca de la necesidad de continuar bajo confinamiento, previo a la audiencia.

Dist: WHITE - Disciplinary Office CANARY - Inmate (After review)

State of New York - Department of Correctional Services

Green Haven.
(Facility)

**SUPPLEMENTARY SHEET FOR INMATE
MISBEHAVIOR REPORT**

Name of Inmate Peters, Tyrone No. 04A436 Cell E-5-247

I then turned to go up to the third deck leaving officer
Bhauri at the end gate, when inmate Peters turned and
stated, "I'm going to take her out." Inmate Peters then
turned and locked into his cell. End of Report.

CO

11/21/12
Date

[Signature]
Signature of person making report

Corrections Officer
Title

[Signature]
Signature

C.O.
Title

ENDORSEMENTS OF OTHER EMPLOYEE
WITNESSES (if any)

[Signature] A. Ghalib
Signature

C.O.
Title

EXHIBIT B

Grievance

Dec 7, 2012

On Nov. 21, 2012 at approximately 12:30 p.m. I was placed in handcuffs and was being escorted to S.H.U. by C.O. Erns and Sgt. Mulloch. After exiting F-Block door with my hands behind my back and still in handcuffs, C.O. Erns ordered me to stop in the corner and face the Wall. C.O. Huttel who left his post came up and asked C.O. Erns why was I going to the S.H.U. C.O. Erns replied, "He told a female C.O. that he was going to kill her." C.O. Huttel then told me to turn around and I did. He then began to choke me causing my head back to hit the wall I could hardly breathe when C.O. Huttel then let my throat go and before I could regain breathing began to use his knee to kick me in the stomach twice and groin area as I pleaded to Sgt. Mulloch to tell this C.O. to stop. C.O. Huttel continued while Sgt. Mulloch and C.O. Erns administer the assault. I began to use my foot as I was still in handcuffs to block the rest of the assault to my groin area when C.O. Huttel stopped. Sgt. Mulloch then smiled and said, "You have a life bill, Peters," and C.O. Erns then joined in and said, "This ticket is going to be on your record, I'll make sure of that." Officer Eberts (a black Haitian C.O.) (check spelling) who was working F and G gate began to make his presence obvious when Sgt. Mulloch said "Okay enough, let's go." C.O. Huttel then decided to grab the handcuffs and raised my hands

to an uncomfortable and hurting position, pushed me in the back, calling me a Pussy, a Bitch and all sorts of derogatory names. I was then taken to the S.H.U. with out further incident. ~~As I walked~~

On Dec. 3, 2012 at approximately 12:00 p.m. C.O. Huttel came to the S.H.U. to escort my neighbor in Cell 1-11 Inmate Gaines to the Clinic when C.O. Huttel Blatantly looked at me and frowned in an angry, disgusted manner and said, "You" before leaving with the inmate.

On Dec. 4, 2012 C.O. Huttel returned to escort Cell 1-9 Inmate Rambharose to Parole. C.O. Huttel again stared me down with a frown of disgust and said something derogatory. He then smirked in a threatening manner before leaving. On returning I asked C.O. Huttel his name and he laughed and said HUTTEL. Then asked Why? He then added, "I didn't do nothing to you." while smirking and then looked at the Cameras before leaving the S.H.U.

Action Requested by Inmate

All 3 officers violated the Rules and Regulations of DOCS and Green Haven Correctional Facility's rules and that of 7 NYCRR chapter V sec 251.12 A-D and did not report the incident and most disturbing a Supervisor Sgt. Mullock, and C.O. Anna Bussing placed me in a corner to face the wall after exiting E-Block door, when there might have been a Blind Spot for the Camera in order to administer this assault by C.O. Huttel who personally performed the duty of Prosecution Judge and Executionist by assaulting me.

This matter is a disgrace and should be properly investigated and all ③ three Officers involved should be penalized as required by this Administration and DOCS in order to eliminate further violations and Bad Acts.

Also I am aware of the Retaliation Symptom known by staff and employees to inmates that write grievances so, for the records, I am not involved in any illegal activities: not limited to Drugs using or selling, Weapons ~~involvement~~ involvement nor do I have any problems with any staff member, so any attempt to retaliate by setting me up in any way, should be eliminated within the confines of this facility.

T. Peters

04A4361

Dec 07, 2012

EXHIBIT C

Action Requested by Inmate

Because it wasn't until I spoke to my Parent, my lawyer my Psychologist and my Correctional Counselor, did I find the courage to write this Grievance, all (3) three Officers violated the Rules and Regulation not tolerated by this Administration here at Green Haven Correctional Facility nor Department Of Correction Service at large, violating 7 N.Y.C.R.R Chapter V Section 251.12 A,B,C,D without reporting the incident, and most disturbing, because this Senior Supervisor Sgt. Mulloch and C.O Erins knowingly placed me in a corner to face the wall after exiting F-Block door when there might have been a Blind Spot for the Camera inorder to administer this assault with C.O Huttel personally performing the duty of Prosecution, Judge and Executionist.

This matter is a disgrace and should be properly investigated and all (3) three Officers involved should be penalized as required by this Administration inorder to eliminate further violation.

Also, but not least, because of the obvious and known retaliation Symptom by staff or employee when an inmate reports their bad act, I would like to state for the records that I am not involved in any illegal activities, not limited to Drugs involvement, Weapons involvement nor do I have any intention to assault any staff member, so any attempt to retaliate by setting me up should be eliminated within the Confines of this Facility.

December 7, 2012

Green Haven Correctional Facility
P.O. Box 4000
Facility Superintendent
Mr. Lee

Re: Complaint (Assault by Staff)

Dear Superintendent Mr. Lee,

Sir, please forgive me for disrupting your busy schedule but I find it very necessary to bring this Complaint directly to your attention, as I am still very much shaken up by this Assault.

Sir, On November 21, 2012 at approximately 12:30 p.m. I was placed in handcuffs and was being escorted to S.H.U. by C.O. Erns and Sgt. Mulloch. After exiting F-Block door with my hands behind my back and still in handcuffs, C.O. Erns ordered me to stop in the corner and face the wall. C.O. Huttel who left his post came up and asked C.O. Erns why was I going to the S.H.U. C.O. Erns replied, "He told a female C.O. that he was going to kill her." C.O. Huttel then told me to turn around and I did. He then began to choke me causing my head back to hit the wall. I could hardly breath when C.O. Huttel then let my throat go and before I could regain breathing began to use his knee to kick me in the stomach twice and groin area as I pleaded to Sgt. Mulloch to tell this C.O. to stop. C.O. Huttel continued

Inmate Grievance Complaint (continued)

while Sgt. Mulloch and C.O. Erns administer the assault. I began to use my foot as I was still handcuff to block the rest of the assault. to my groin area when C.O. Huttel stopped. Sgt. Mulloch then smiled and said "You have a Life bid Peters" and C.O. Erns then joined in and said, "This ticket is going to be on your record, I'll make sure of that." Officer Eberts (a black Haitian CO) (check spelling) who was working F and G gate, began to make his presents obvious when Sgt. Mulloch said "Okay enough. Let's go." C.O. Huttel then decided to grab the Handcuffs and raise my hands and push me in the back calling me a "Pussy, a Bitch and all sorts of derogatory names. I was then taken to the S.H.U. with no further incident. The Doctor asked if I was hurt and I told him no because I was scared of retaliation at that time knowing a Supervisor C.O. Sgt. Mulloch was involved.

On Dec. 3, 2012 at approximately 12:00 p.m. C.O. Huttel came to S.H.U. to escort my neighbor in Cell 1-11 Inmate Graines to the Hospital when C.O. Huttel Blatantly looked at me and frowned in an angry disgusted manner and said, "You" before leaving with the Inmate. On Dec. 4, 2012, C.O. Huttel returned to escort cell-1-9 Inmate Rambharose to Parole. C.O. Huttel again stared me down with a frown and disgust. He then smirked in a threatening manner before leaving. On returning I asked C.O. Huttel his name and he laughed and said HUTTEL then asked Why? Then he added, "I didn't do nothing to you" while smirking and then looked at the Cameras before leaving the S.H.U. — End of Grievance — other page continue.

EXHIBIT D

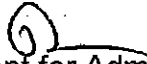


STATE OF NEW YORK
DEPARTMENT OF CORRECTIONS
AND COMMUNITY SUPERVISION
GREEN HAVEN CORRECTIONAL FACILITY
594 Route 216
Stormville, NY 12582
845-221-2711

BRIAN FISCHER
COMMISSIONER

WILLIAM A. LEE
Superintendent

MEMORANDUM

TO: T. Peters, 04A4361 SHU35
FROM: Stephen G. Brandow 
Deputy Superintendent for Administration
DATE: December 12, 2012
RE: Your Letter dated 12/10/12 regarding Staff

I am in receipt of your recent letter regarding the above.

I have forwarded your recent letter to Deputy Superintendent Burnett for his appropriate action.

SB/jr
cc: E. Burnett, DSS
File

December 10 2012

Green Haven Correctional Facility

P.O. Box 4000

Stormville, N.Y. 12582

Attn: Deputy Of Administration

Mr. Brandon

Re: Complaint (abuse by Staff/C.O.)

Dear Mr. Brandon,

My name is Tyrone Peters and I am an Inmate here at G.H.C.F. who has been abused and assaulted by Staff.

Sir, before I begin, we had two encounters where you commended me on my cleanliness. Once you toured F-Block a few months ago when I was the porter on 5 compa and you slid because the floor was extra shine and you joked about it. The (2) second is a few days ago while I'm here in SHU and you again complimented me on how shine my toilet was before Mr. Lee and The other Superintendent Mr. Perez walked.

Sir, all I do is clean and I take pride in what I do. Sir, I have never disrespected any staff member, whether Civilian or C.O., nor have I disrespected any Inmate in G.H.C.F. I was a porter in F-Block who tried to do the right thing on Nov 21, 2012 before the Administrative team came to the block by running down stairs to warn the A-officer about what an inmate

was planning to do, if the Superintendent walked the company. The A officer's unprofessional act of dismissing me without hearing me out, caused an O.T.T. to write a fictitious Misbehavior Report for the benefit of firing me as the porter in F-Block which was encouraged by C.O. Erns who was fed up with my actions of not having information which he was interested in and I couldn't know.

Other Officers who were there that day came to the hearing and testified to the truth and facts of the situation.

However, my concerns lies with the Assault.

On November 21, 2012 C.O. Erns, Sgt. Mulloch and C.O. Huttel took me to S.H.U. Before escorting C.O. Huttel - after I exited F-Block door with C.O. Erns and Sgt. Mulloch in handcuffs came up, asked why I was going to S.H.U. and when C.O. Erns said, "I threatened to kill a female C.O." began to kick me in the stomach and groin area a few times until I was able to block the assault. They then brought me to S.H.U. because another C.O. Eberts made his presence obvious. Sir, I have n't done anything to deserve this. I am still hurt from this assault. Sir, C.O. Huttel continue to make threats to me.

Sir I'm asking you, Please sir. Please investigate this matter and sanction these Officers for their Bad Act and ask them to stop and leave me alone. Thank You Sir

Most Respectfully
Inmate: Tyrone Peters

EXHIBIT E

December 18 2012

Green Haven Correctional Facility
P.O. Box 4000
Stormville, N.Y. 12582
Facility Superintendent
Mr. Lee

Re: No response to 1st Complaint of Abuse
from Staff.

Dear Superintendent Mr. Lee,

On December 7, 2012 I wrote and mailed to your Office a copy of my Complaint about being abused by (3) three Officers C.O. Huttel, C.O. Erna and Sgt. Mulloot. Sir, I was admitted to Mount Vernon Hospital behind this beating which I consider to be a very serious matter. My Complaint was made on a timely manner although I was threatened not to complain and of such or until this date 12/18/12 I haven't received a response from your office or The Grievance Office which I had sent a copy also.

Sir I know you are very busy, but I believe this matter should be addressed. This facility shouldn't tolerate assault on Staff and it should not tolerate assault on inmate.

Most Respectfully
Tyronne Peters